

### **REMARKS**

Applicants note that the copy of the Information Disclosure Statement by Applicants attached to the Office Action mailed March 9, 2010 shows a cross-out line through foreign document number JP 12-002447. No mention is made in the Office Action as to why the cross-out line is through JP 12-002447. Applicants are proceeding with the understanding that the document is crossed out because no publication date is listed for JP 12-002447. Filed even date is a Supplemental Information Disclosure Statement showing the publication date of JP 12-002447 to be 1937. However, the specific month and day could not be identified. Therefore, the month and day were chosen as January 1, 1937 so that Form PTO/SB/08a can be filed electronically. In the event Applicants' understanding is not correct, Applicants request that they be advised as to why JP 12-002447 was crossed out.

Applicants thank Examiner J. Casimer Jacyna for the courtesies extended to Applicants' undersigned Attorney Paul Reznick during the telephone conversation of February 23, 2010, and voice mail exchange on March 2 and 3, 2010. The Examiner indicated that amending claim 7 to more positively recite the instilling portion and the aerating device would place claim 7 in condition for allowance. The Examiner provided suggestions for amending claim 7. The approval by client to accept the proposed changes was received by Paul Reznick and passed on to the Examiner after the Office Action was being processed for mailing. Applicants apologize for the delay.

Claims 7, 8, and 13-28 are in the instant application. Claims 7, 8, 15, 16, 21, and 22 are amended to more positively recite Applicants' patentably novel eye drop container. Claims 21 and 22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph and to include all of the limitations of the base claim and any intervening claims.

Claims 8, 15, 16, 18, and 20-22 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In regard to claims 15 and 16 indirectly

dependent on parent claim 7, the Office Action alleges that parent claim 7 defines a cap that is attachable to the container body, wherein it is not certain if the cap attachable to the container body defined in claims 15 and 16 is the same cap or a different cap from the cap defined in claim 7. In regards to claim 8, the Office Action alleges that claim 8 only defines a function of supporting the container body, wherein it is not certain which element is performing the function.

Applicants respectfully traverse the rejections of claims 8, 15, 16, 18, and 20-22 under 35 U.S.C. § 112, second paragraph. However, to eliminate this issue, claims 8, 15, and 16 are amended to more positively recite Applicants' patentably novel eye drop container. More particularly, claim 8 is amended to add structure to claim 8, and claims 15, and 16 are each amended by canceling the recitation "further comprising a cap attachable to the container body and". Support for the amendments to claims 8, 15 and 16 is found, among other places, in the pending claims. Claims 18, 20, and 22 are dependent on claim 8, and claim 21 is dependent on claim 15. Based on the foregoing, Applicants respectfully request admission of the amendments to claims 8, 15, and 16, consideration of claims 8, 15, 16, 18, and 20-22, and withdrawal of the rejection of claims 8, 15, 16, 18, and 20-22 under 35 U.S.C. § 112, second paragraph.

As mentioned above, claims 21 and 22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph and to include all of the limitations of the base claim and any intervening claims. Claim 21, dependent on independent claim 7 through claim 15, is amended to include the limitations of claim 7 and amended claim 15. Claim 22, dependent on claim 7 through claims 26, 27, 8 and 16 is amended to include the limitations of claims 7, 26, 27, and amended claims 8 and 16. Support for the amendments to claims 21 and 22 is found, among other places, in the pending claims.

Based on the foregoing, Applicants respectfully request admission of the amendments to, consideration of, withdrawal of the objections to, and allowance of, claims 21 and 22.

Claims 7, 8, 13, 14, 17-20, and 23-28 are rejected under 35 U.S.C. § 102(b) as being anticipated by Petterson U.S. Patent No. 4,002,168 (hereinafter also referred to as "Petterson"). Claims 8, 13, 14, 17-20, and 23-28 are either directly or indirectly dependent on claim 7.

Applicants respectfully traverse the rejection of claims 7, 8, 13, 14, 17-20, and 23-28 under 35 U.S.C. § 102(b) as being anticipated by Petterson. However, to eliminate this issue, claim 7 is amended to include the language proposed by Examiner Jacyna. More particularly, claim 7 recites, among other things, that “an instilling portion provided at the top of the container” and that “when the bottom cap is removed to steadily support the container on the floor surface in a balanced manner.” Support for the amendments to claim 7 is found, among other places, in the pending claims and on page 14, lines 14-21 of the originally filed specification.

Applicants respectfully submit that there is no disclosure in Petterson of an eye drop container having, among other things, components that provide the feature that “when the bottom cap is removed to steadily support the container on the floor surface in a balanced manner.”

Based on the foregoing, Applicants respectfully request withdrawal of the rejection of claims 7, 8, 13, 14, 17-20, and 23-28 under 35 U.S.C. § 103(a) as being anticipated by Petterson and respectfully request allowance of claims 7, 8, 13, 14, 17-20, and 23-28.

Claims 15 and 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Petterson in view of International Patent Application Publication No. WO 02/38464 to Faurie et al. (hereinafter also referred to as “Faurie”). Applicants respectfully traverse the rejection of claims 15 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Petterson in view of Faurie and request reconsideration thereof.

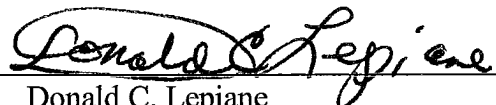
Claims 15 and 16 depend from claim 7. Claims 7, 15, and 16, and Petterson were discussed above. In that discussion, Applicants identified features recited in claim 7 that are not disclosed in Petterson. Applicants respectfully submit that Faurie also fails to disclose those features. More particularly, Petterson and Faurie jointly fail to disclose, among other things, an eye drop container having, among other things, components that provide the feature that “when the bottom cap is removed to steadily support the container on the floor surface in a balanced manner.”

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Based on the foregoing, Applicants respectfully request withdrawal of the rejection of claims 15 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Petterson in view Faurie and request allowance of claims 15 and 16.

This Amendment represents a sincere effort to place this application in condition for allowance. In the event issues remain, the Examiner is invited to contact the Applicants' undersigned representative by telephone.

Respectfully submitted,  
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